

REMARKS

Applicants submit this Reply in response to the non-final Office Action mailed November 26, 2007. Before this amendment, claims 8-14 were pending, of which claims 8, 13, and 14 were independent. In this Reply, Applicants have amended claims 8-10, 13, and 14, and added new dependent claims 15 and 16 and new independent claim 17. Accordingly, claims 8-17 are currently pending, of which claims 8, 13, 14, and 17 are independent. In the non-final Office Action, the Examiner rejected claims 8-14 under 35 U.S.C. § 102(e) as being anticipated by International Publication No. WO 02/052869 A2 ("Satt et al."). Applicants respectfully traverse the pending rejections and request reconsideration of the application, as presently amended.

In order to properly establish an anticipation rejection under 35 U.S.C. § 102(e), every element of the claims at issue must be found in the applied prior-art reference, either expressly or under principles of inherency. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). In this case, Satt et al. fails to teach or suggest every element of Applicants' invention.

Each of Applicants' independent claims 8, 13, 14, and 17 calls for a combination including, for example, "categorizing the data calls as a plurality of data traffic streams, whereby each data traffic stream is associated with a different data terminal capability" and "identifying a set of possible cell statuses associated with the cell, each possible cell status corresponding to a different set of values $\{m_1, m_2, \dots, m_N\}$ where m_i represents a number of data terminals associated with the i^{th} data traffic stream and N

represents the total number of data traffic streams.” Applicants respectfully submit that Satt et al. fails to teach or suggest at least categorizing data calls and identifying possible cell statuses, as recited in Applicants’ independent claims. For at least this reason, Satt et al. cannot legally anticipate independent claims 8, 13, 14, and 17, as presently amended.

Satt et al. discloses a system for allocating resources in cellular networks. See Satt et al., Abstract and Title. To that end, Satt et al. “decomposes” (i.e., categorizes) network traffic into a plurality of different application flows, “each flow representing a service or application on a network down-link.” *Id.*, Abstract; see also *id.*, p.7, ll. 10-12 (“A Traffic Shaper that decomposes the overall IP stream into services and applications on the down-link, expresses them as flows, and shapes the traffic by allocating different bandwidth and delay to each flow”) and p. 17, ll. 11-18 (“There are three basic types of application packet flows to consider . . . [1] Real-time audio/video and audio/video streaming . . . [2] Interactive services . . . [3] Non real-time services”).

As shown above, Satt et al. categorizes network traffic into different application data flows for purposes of traffic management. In contrast, Applicants’ amended independent claims 8, 13, 14, and 17 recite, among other things, “categorizing the data calls as a plurality of data traffic streams, whereby each data traffic stream is associated with a different data terminal capability.” Thus, unlike the application data flows in Satt et al. that are categorized based on their associated software applications (or services), Applicants’ claimed data traffic streams are instead categorized “whereby each data traffic stream is associated with a different data terminal capability.” Or put another way, because the data flows in Satt et al. are categorized based on applications

and services, the application-flow categorization in Satt et al. appears to be inconsistent with “categorizing the data calls as a plurality of data traffic streams, whereby each data traffic stream is associated with a different data terminal capability,” as claimed.

In addition, since Satt et al. does not teach or suggest data traffic streams associated with different data terminal capabilities, as claimed, Satt et al. also cannot reasonably teach or suggest “identifying a set of possible cell statuses associated with the cell, each possible cell status corresponding to a different set of values $\{m_1, m_2, \dots m_N\}$ where m_i represents a number of data terminals associated with the i^{th} data traffic stream and N represents the total number of data traffic streams,” as recited in Applicants’ amended independent claims 8, 13, 14, and 17. Indeed, Satt et al. appears to be completely silent regarding possible cell statuses associated with a cell, where “each possible cell status correspond[s] to a different set of values $\{m_1, m_2, \dots m_N\}$,” as claimed. Finally, because of the absence of Applicants’ claimed “possible cell statuses” in Satt et al., Satt et al. also cannot teach or suggest any of the other claim recitations in amended independent claims 8, 13, 14, and 17 that further recite Applicants’ claimed “possible cell statuses.”

In view of the foregoing, Applicants submit that independent claims 8, 13, 14, and 17, as amended, are patentable over Satt et al. at least because Satt et al. fails to teach or suggest “categorizing the data calls as a plurality of data traffic streams, whereby each data traffic stream is associated with a different data terminal capability” and “identifying a set of possible cell statuses associated with the cell, each possible cell status corresponding to a different set of values $\{m_1, m_2, \dots m_N\}$ where m_i represents a number of data terminals associated with the i^{th} data traffic stream and N represents the

total number of data traffic streams," as claimed. Dependent claims 9-12, 15, and 16 depend on independent claim 8 and are therefore allowable for at least the same reasons.

The preceding remarks are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding remarks in favor of patentability are advanced without prejudice to other possible bases of patentability.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and timely allowance of the pending claims. Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: 
Stephen E. Kabakoff
Reg. No. 51,276
(404) 653-6477